

Agricultural Marketing Service, USDA

§ 917.37

under § 917.39 and make said recommendations pursuant to §§ 917.40 through 917.43 only upon the affirmative vote of not less than nine members of each said committee.

(b) To make such rules and regulations with respect to fruit for which it was established as may be necessary to effectuate the terms and provisions of this part.

(c) To forward to the Control Committee and to the Secretary a record of the minutes of each meeting of the commodity committee.

(d) To establish such other committees to aid the commodity committee in the performance of its duties under this part as may be deemed advisable.

(e) Each season prior to any recommendation to the Secretary for a regulation of shipments pursuant to §§ 917.40 through 917.43 to determine the marketing policy to be followed for the respective commodity during the ensuing fiscal period and to submit such policy to the Secretary, said policy report to contain, among other provisions, information relative to the estimated total production and shipments of the fruit by districts, information as to the expected general quality and size of fruit, possible or expected demand conditions of different market outlets, supplies of competitive commodities, such analysis of the foregoing factors and conditions as the committee deems appropriate, and the type of regulations of shipments expected to be recommended for the respective fruit.

(f) To submit as soon as practicable after the beginning of each fiscal year to the Secretary, for his approval, a budget of its expenses for such fiscal period, including its proportional share of the expenses of the Control Committee and an explanation of the items therein, and a recommendation as to the rate of assessment for the respective fruit for which the commodity committee was established.

(g) With the approval of the Secretary, to redefine the Districts into which the State of California has been divided under § 917.14 or change the representation of any representation area affecting the respective commodity committee: *Provided, however*, That if any such changes are made, representa-

tion on any such committee from the various representation areas shall be based, so far as practicable, upon the proportionate quantity of the respective fruit shipped from the respective representation area during the preceding three fiscal periods: *Provided further*, That the commodity committees shall follow the principle, so far as practicable, of assigning a member position on the commodity committees to any representation area from which five percent of regulated shipments have originated during such periods.

[41 FR 17528, Apr. 27, 1976, as amended at 56 FR 46369, Sept. 12, 1991]

EFFECTIVE DATE NOTE: At 59 FR 10056, Mar. 3, 1994, in § 917.35, in paragraph (a), the words "and Pear" and "each" were suspended everywhere they appear, effective April 4, 1994.

EXPENSES AND ASSESSMENTS

§ 917.36 Expenses.

Each commodity committee is authorized to incur such expenses as the Secretary finds are reasonable and are likely to be incurred by the said commodity committee during each fiscal period for the maintenance and functioning of such committee, including its proportionate share of the expenses of the Control Committee; and for such research and service activities relating to handling of the fruit for which the commodity committee was established as the Secretary may determine to be appropriate. The funds to cover such expenses shall be acquired by the levying of assessments as provided in § 917.37.

§ 917.37 Assessments.

(a) As his pro rata share of the expenses which the Secretary finds are reasonable and are likely to be incurred by the commodity committees during a fiscal period, each handler shall pay to the Control Committee, upon demand, assessments on all fruit handled by him. The payment of assessments for the maintenance and functioning of the committees may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative.

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(b) The Secretary shall fix the respective rate of assessment which handlers shall pay with respect to each fruit during each fiscal period in an amount designed to secure sufficient funds to cover the respective expenses which may be incurred during such period. At any time during or after the fiscal period, the Secretary may increase the rates of assessment in order to secure funds to cover any later findings by the Secretary relative to such expenses, and such increase shall apply to all fruit shipped during the fiscal period.

(c) In order to provide funds to carry out the functions of the commodity committee prior to commencement of shipments in any season, shippers may make advance payments of assessments, which advance payments shall be credited to such shippers and the assessments of such shippers shall be adjusted so that such assessments are based upon the quantity of fruit shipped by such shippers during such season. Any shipper who ships fruit for the account of a grower may deduct, from the account of sale covering such shipment or shipments, the amount of assessments levied on said fruit shipped for the account of such grower.

§917.38 Accounting.

If, at the end of a fiscal period the assessments collected are in excess of expenses incurred, each commodity committee, with the approval of the Secretary, may carry over such excess into subsequent fiscal periods as a reserve: *Provided*, That funds already in the reserve do not exceed approximately one fiscal period's expenses. Such reserve funds may be used (1) to cover any expenses authorized by this part and (2) to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, each handler entitled to a proportionate refund shall be credited with such refund against the operations of the following fiscal period or be paid such refund. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such manner as the Secretary may determine to be appropriate: *Provided*, That, to the extent practical, such funds

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shall be returned pro rata to the persons from whom such funds were collected.

RESEARCH

§917.39 Production research, market research and development.

The committees, with the approval of the Secretary, may establish or provide for the establishment of production research, marketing research, and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of fruit. Such projects may provide for any form of marketing promotion including paid advertising. The expenses of such projects shall be paid from funds collected pursuant to §917.37.

REGULATIONS

§917.40 Recommendations for regulations.

(a) Whenever a commodity committee deems it advisable to regulate the handling of any variety or varieties of fruit in the manner provided in §917.41, it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the commodity committee shall give consideration to current information with respect to the factors affecting the supply and demand for such fruit during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the commodity committee shall submit to the Secretary the data and information on which such recommendation is predicated and such other available information as the Secretary may request.

§917.41 Issuance of regulations.

(a) The Secretary shall regulate, in the manner specified in this section, the handling of any variety or varieties of fruit whenever he finds, from the recommendations and information submitted by the commodity committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may: